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Memorandum of Conversation

Approved in U
-3/29/68

Time: 10:30 a.m.
Place: Under Secretary's Office

SUBJECT: U.S.S. Liberty claims

	Foreign	United States
PARTICIPANTS:	Ambassador Rabin, Ambassador of Israel Mr. David Ginsburg, Ginsburg & Feldman, Washington, D. C.	U - Mr. Katzenbach - Mr. Heymann NEA - Mr. Lambrakis L - Mr. Salans - Mr. Kerley
COPIES TO:	Mr. Lee R. Marks, Ginsburg & Feldman	

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1. Ambassador Rabin began the discussion by stating that Israel had accepted in principle the obligation to pay the claims, but that more than half the compensation claimed related to shock and emotional anguish. He had been instructed by his Government to obtain information how the compensation claimed for shock and emotional anguish had been calculated. Mr. Ginsburg elaborated. He said the compensation claimed for loss of support was $1.54 million. Israel conceded that figure and was prepared to pay it. The problem was how shock and emotional anguish had been calculated. He noted that five other parts of the claim have not yet been presented.

2. The Under Secretary replied that the death claims had been presented first out of humanitarian considerations; there was genuine financial need in some cases. Other types of claims might take more time. In the personal injury claims we still do not know the full extent of injury in the more serious cases. He urged that the Government of Israel not hold up the death claims pending receipt of the other categories of claims, and he added that Congressional interest was greatest in connection with this category of claims.

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E.O. 12356, Sec. 3.5
NSC Memo, 11/24/98, State Dept. Guidelines
By cwg, NARA, Date 12/29/99

3. Mr. Ginsburg said that the allowance for emotional anguish was an arbitrary figure, and he apprehended that this might foreshadow a high arbitrary figure for pain and suffering in the personal injury claims. Ambassador Rabin feared that the Government of Israel, by accepting the arbitrary figure regarding emotional anguish, might be setting a precedent whereby it would be bound to accept other arbitrary figures, such as that for pain and suffering in the personal injury cases. Both seemed unpersuaded when the difference between emotional anguish in death cases and pain and suffering in personal injury cases was pointed out, but they acknowledged the validity of the Under Secretary's remark that allowances of this nature could not avoid being arbitrary, even when presented to a jury.

4. Mr. Ginsburg asked if he could have further information as to how the emotional anguish compensation was calculated. Mr. Ginsburg and Mr. Marks remarked that Federal statutes do not recognize payments for emotional anguish in claims of this sort against the United States Government. The same is true of some State statutes. He also asked for the computation formula that would be used in the personal injury cases and the approximate level of compensation that would be sought for repairs to the U.S.S. Liberty. Mr. Salans suggested a meeting between lawyers in L and members of Mr. Ginsburg's firm early this week to discuss this, and Mr. Ginsburg agreed.

5. The Under Secretary raised the possibility of a partial payment on the claims. He pointed out that the hardship cases were those involving loss of support, which is the portion of the claim which the Government of Israel already recognizes. Mr. Ginsburg thought the Government of Israel might be agreeable to such a procedure. This matter was left open for further consideration.

6. The Under Secretary emphasized that the Government of Israel should settle the death claims now, without waiting for other categories of claims. That would be in the interest of both parties. Mr. Salans suggested that holding up payment of the death claims in order to consider property claims would be an especially difficult position for the Government of Israel to justify.

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